



**Rule(s) Review Checklist Addendum**  
**(This form must be filled out electronically.)**

**This form is to be used only if the rule(s) was/were previously reviewed, and has/have not been amended/repealed subsequent to that review.**

All responses should be in **bold** format.

Document Reviewed (include title): **WAC 458-20-181 (Vessels, including log patrols, tugs and barges, operating upon waters in the state of Washington)**

Date last reviewed: **September 24, 1997**

Current Reviewer: **Mark Mullin**

Date current review completed: **September 18, 2001**

Is this document being reviewed at this time because of a taxpayer or association request? (If "YES", provide the name of the taxpayer/association and a brief explanation of the issues raised in the request). **YES** ☐ **NO** ☒

Type an "x" in the column that most correctly answers the question, and provide clear, concise, and complete explanations where needed.

**1. Briefly describe the subject matter of the rule(s):**

- **WAC 458-20-181 explains the application of the business and occupation, retail sales, use, and public utility taxes to persons engaged in operating vessels, including log patrols, tugs, and barges, upon waters within the state of Washington.**

**2. Related statutes, interpretive statements, court decisions, BTA decisions, and WTDs:** (Excise Tax Advisories (ETAs), Property Tax Advisories (PTAs), Property Tax Bulletins (PTBs) and Audit Directives (ADs) are considered interpretive statements.)

| YES      | NO       |  |
|----------|----------|--|
|          | <b>X</b> | Are there any statutory changes subsequent to the previous review of this rule that should be incorporated?  |
| <b>X</b> |          | Are there any interpretive statements not identified in the previous review of this rule that should be incorporated? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)   |
|          | <b>X</b> | Are there any interpretive statements that should be repealed because the information is currently included in this or another rule, or the information is incorrect or not needed? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.) |
|          | <b>X</b> | Are there any Board of Tax Appeal (BTA) decisions, court decisions, or   |



|   |   |   |
|---|---|---|
|   |   | Attorney General Opinions (AGOs) subsequent to the previous review of this rule that provide information that should be incorporated into this rule?  |
| X |   | Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) subsequent to the previous review of this rule that provide information that should be incorporated into the rule?   |
|   | X | Are there any changes to the recommendations in the previous review of this rule with respect to any of the types of documents noted above? (An Ancillary Document Review Supplement should be completed if any changes are recommended with respect to an interpretive statement.) |

If the answer is “yes” to any of the questions above, identify the pertinent document(s) and provide a brief summary of the information that should be incorporated into the document.

- **ETA 325 addresses the taxability of charter boat owners and charter agencies. As noted in the Ancillary Document Review Checklist for ETA 325, the ETA is in part misleading. However, ETA 325 provides useful information regarding the responsibility of a charter agent to remit collected sales tax only to boat owners who are properly registered with the Department. The ETA does not appear to be causing confusion, presumably in part because the Department has issued a Guide for Vessel Brokers & Dealers (June 1998) (the “Vessel Guide”) and a Special Notice addressing the taxability of the charter boat industry (February 7, 1997). Thus, the ETA can be retained until the pertinent information is incorporated into a revised Rule 181.**
- **Det. No. 98-060, 17 WTD 202 (1998) addresses the taxability of “skipped charters” for purposes other than one-day sightseeing trips, including charters for funerals, weddings, meetings, and corporate social gatherings. The information provided by Det. No. 98-060 should be incorporated into this rule.**

**3. Additional information:** Identify any additional issues (other than that noted above or in the previous review) that should be addressed or incorporated into the rule. Note here if you believe the rule can be rewritten and reorganized in a more clear and concise manner.

- **This rule can be rewritten and reorganized in a more clear and concise manner. This rule should be rewritten in the current user-friendly format. Also, instead of organizing the rule by type of tax, it may be more user-friendly to organize the rule by type of vessel and/or type of business activity.**
- **All of the log patrol statutes in the Revised Code of Washington were repealed in 1994, along with the reference to log patrol in RCW 82.16.010(10) defining “public service business.” Moreover, log patrols are addressed in WAC 458-20-13501. In light of these developments, consideration should be given to removing all references to log patrols in this rule.**



- This rule should be revised to include information about the taxability of skippered and bare-boat charters. Information about charter activities can be found in the Vessel Guide, the Special Notice addressing the taxability of the charter boat industry, and ETA 325. Providing this information in a single document will reduce potential confusion.
- This rule should also contain a reference to WAC 458-20-175.
- It may also be helpful to include a brief discussion of watercraft excise tax and the personal property tax on commercial vessels, including information concerning where additional information about these taxes can be obtained.

**4. LISTING OF DOCUMENTS REVIEWED:** The reviewer need identify only those documents that were not listed in the previous review of the rule(s). (Use “bullets” with any lists, and include documents discussed above. Citations to statutes, interpretive statements, and similar documents should include titles. Citations to Attorneys General Opinions (AGOs) and court, Board of Tax Appeals (BTA), and Appeals Division (WTD) decisions should be followed by a brief description (i.e., a phrase or sentence) of the pertinent issue(s).)

Statute(s) Implemented: **None**

Interpretive statements (e.g., ETAs and PTAs): **ETA 325.08.159/221**

Court Decisions: **None**

Board of Tax Appeals Decisions (BTAs):

- *Olympic Tug and Barge Co. v. Dep’t of Rev.*, BTA Docket No. 55558 (2001). This case involved the following issues: (1) whether the taxpayer was liable for sales and use taxes on the acquisition and use of tugs and barges to transport bunker fuel to ships in Washington waters; (2) whether the taxpayer was entitled to a public utility tax (PUT) exemption provided by RCW 82.16.050(8) for its fuel bunkering service; and (3) whether the taxpayer was exempt from PUT on its transportation of fuel from a terminal in Puget Sound to a delivery point in Port Angeles when part of the trip occurred in Canadian waters?

Administrative Decisions (e.g., WTDs):

- Det. No. 00-057, 19 WTD 986 (2000). This determination was the subject of the above cited BTA case in *Olympic Tug and Barge Co. v. Dep’t of Rev.*
- Det. No. 98-060, 17 WTD 202 (1998). The issue in this determination was the taxability of skippered charters for purposes other than day trips for sightseeing purposes.



Attorney General's Opinions (AGOs): **None.**

Other Documents (e.g., special notices or Tax Topic articles, statutes or regulations administered by other agencies or government entities, statutes, rules, or other documents that were reviewed but were not specifically relevant to the subject matter of the document being reviewed):

- **Special Notice addressing the taxability of the charter boat industry (February 7, 1997)**
- **Guide For Vessel Brokers & Dealers (June 1998)**

**5. Review Recommendation:**

- X**        **Amend**
- \_\_\_\_\_      **Repeal** (Appropriate when repeal is not conditioned upon another rule-making action.)
- \_\_\_\_\_      **Leave as is** (Appropriate even if the recommendation is to incorporate the current information into another rule.)
- \_\_\_\_\_      **Begin the rule-making process for possible revision.** (Applies only when the Department has received a petition to revise a rule.)

**Explanation of recommendation:** Provide a brief summary of your recommendation, whether the same as or different from the original review of the document(s). If this recommendation differs from that of the previous review, explain the basis for this difference.

If recommending that the rule be amended, be sure to note whether the basis for the recommendation is to:

- Correct inaccurate tax-reporting information now found in the current rule;
- Incorporate legislation;
- Consolidate information now available in other documents (e.g., ETAs, WTDs, court decisions); or
- Address issues not otherwise addressed in other documents (e.g., ETAs, WTDs, court decisions).

➤ **This rule should be amended to:**

- Correct inaccurate, misleading, or inconsistent tax-reporting information regarding day trips for sightseeing purposes, dry docking, and the taxability of lighters.**
- Eliminate the discussion of log patrols because the information is adequately addressed in WAC 458-20-13501.**
- Include a discussion of the taxability of the charter boat industry which will consolidate and clarify information presently contained in ETA 325, the Special Notice addressing the charter boat industry, and the Vessel Guide.**



- iv. **Include a reference to WAC 458-20-175 (Persons engaged in the business of operating as a private or common carrier by air, rail or water in interstate or foreign commerce.)**
- v. **Advise vessel owners of their potential liability for watercraft excise tax or personal property tax and provide citations to other rules and statutes where additional information about these taxes can be found.**

**6. Manager action:**    Date: \_\_\_\_\_

\_\_\_\_\_ Reviewed and accepted recommendation

Amendment priority:

- \_\_\_\_\_ 1
- \_\_\_\_\_ 2
- \_\_\_\_\_ 3
- \_\_\_\_\_ 4